



SUPPLEMENTAL

COUNCIL AGENDA: 01-11-11
ITEM: 6.1

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Katy Allen
Hans F. Larsen

SUBJECT: CONTINUANCE OF
MAINTENANCE DISTRICT 23
PUBLIC HEARING

DATE: 12-17-10

Approved 

Date 12/17/10

COUNCIL DISTRICT: 4

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL

The purpose of this supplemental memo is to add to the recommendation the authorization for the City Manager, or her designee, to negotiate and execute an agreement or amendment to the current agreement with the County of Santa Clara for the City to pay the Maintenance District 23 (Berryessa Rd. from I-680 to Piedmont Rd.) assessment on parkland operated by the City but owned by the County of Santa Clara within the district boundary during the City's tenancy on the property.

RECOMMENDATION

- (a) Adopt a resolution authorizing the City Manager to negotiate and execute an agreement for the City to pay the annual Maintenance District 23 assessment, if approved, on land owned by the County of Santa Clara and occupied by the City operated park and community center during the City's tenancy on the property.
- (b) Conduct a public hearing regarding the formation of proposed Maintenance District 23 and at the close of the public hearing direct the City Clerk to tabulate the property owner ballots and report the results.
- (c) If the majority of the votes tabulated are weighted in favor of the proposal:
 - (1) Adoption of a resolution:
 - a. Declaring the ballot tabulation results;
 - b. Approving the engineer's report, base assessment and annual adjustments and forming Maintenance District 23; and
 - c. Imposing the assessments on those properties within the district as proposed in the engineer's report

- (2) Establish a new fund in Maintenance District 23 (Berryessa Road from I-680 to Piedmont Road)

BACKGROUND

The public hearing on the proposed formation of Maintenance District 23 was opened on November 16, 2010 and continued to January 11, 2011 along with all subsequent actions, including the ballot tabulation and formation. At the public hearing on November 16th, two members of the public and a County representative addressed Council regarding the proposed district formation.

As indicated by the County representative, the City of San José operates and maintains Penitencia Creek Park and the Berryessa Community Center on County of Santa Clara land within the proposed maintenance district. In a tri-party agreement between the City, County and Santa Clara Valley Water District, the County has granted permission to the City, at the City's sole cost, to construct improvements on the County-owned land and be responsible for all operation and maintenance costs. However, the tri-party agreement is silent as to which party would pay any special assessments levied upon the property. As a result, it is recommended that the Council authorize the City Manager and her designee to negotiate an agreement (or amendment of the existing tri-party agreement) for the City to pay the Maintenance District 23 assessment during the City's tenancy on the property.

ANALYSIS

If the District is approved by the voters, it is recommended that the Council authorize the City Manager to negotiate an agreement (or amendment of the existing tri-party agreement) for the City to pay the Maintenance District 23 assessment during the City's tenancy on the property. The initial annual assessment upon formation of Maintenance District 23 is approximately \$6,313, but will change in future years since it is subject to annual adjustments by the average annual change in the Consumer Price Index for the San Jose-San Francisco-Oakland area.

Article XIID of the California Constitution provides that only special benefits are assessable. If there are general benefits, they must be separated from the special benefits conferred on a parcel; a special benefit being a particular and distinct benefit over and above general benefits which are conferred on the public at large. General benefits provided by the district landscape maintenance includes maintenance and operation services for the street islands; generally provided by the City at much lower care levels in similar areas. Since Berryessa Road is a major thoroughfare that would require median islands, there is also an annual general benefit contribution of \$7,500 the City would be required to pay, which is the estimated maintenance cost for the medians if only Type 1 landscape exists. The total annual cost of to the City for the initial fiscal year is \$13,813. The Department of Transportation proposes to appropriate the annual assessment and general benefit contribution from the construction maintenance fund (Fund 001).

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COORDINATION

This supplemental memorandum has been coordinated with the Office of the City Attorney, the Departments of Parks, Recreation and Neighborhood Services, and the Office of the City Clerk. Staff has been in direct contact with the appropriate County representatives regarding the proposed maintenance district.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to fund the City's commitment with the formation of Maintenance District #23.

Fund #	Appn #	Appn. Name	Total Appn	2010-2011 Budget Page	Last Budget Action (Date, Ord. No.)
001	0512	Non-Personal/Equipment Department of Transportation	\$11,475,123		06/29/2010 Ord. No. 28765

/s/

/s/

HANS F. LARSEN
Acting Director of Transportation

KATY ALLEN
Director, Public Works Department

For questions please contact DAVID SYKES, ASSISTANT DIRECTOR, PUBLIC WORKS DEPARTMENT at (408) 535-8300.

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